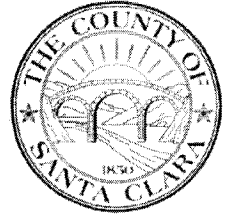


Office of the Assessor

County of Santa Clara

County Government Center, East Wing
70 West Hedding Street, 5th Floor
San Jose, CA 95110-1771
(408) 299-5500 www.sccassessor.org



Lawrence E. Stone, Assessor

December 10, 2013

Hon. George Runner, Senator
Chair, State Board of Equalization Property Tax Committee
500 Capitol Mall, Ste. 1750
Sacramento, CA 95814

(via email to george.runner@boe.ca.gov)

Re: Embedded Software

Dear Senator Runner,

Thank you for organizing the panel on embedded software at the joint meeting of the Board of Equalization and the California Assessors' Association in October. As we both agreed, the embedded software problem has become worse since we discussed it a year ago in Sacramento. The recent State Board survey indicated that assessment appeals, in which embedded software was one of the issues, have increased by 500 percent in the last six years.

During our panel discussion, both Larry Hoenig and Therese Twomey encouraged the use of industry funded studies to value embedded software. More importantly, they indicated that the State Board (specifically the State Assessed Properties Division) and a few assessors have utilized such studies in assessing embedded software. Despite extensive efforts, my office has not received any study including source documentation that we could use to justify an assessment reduction. In fact, in three separate assessment appeals with major Silicon Valley corporations, each of our three assessment appeals boards ruled that the taxpayers failed to provide any "credible" evidence to satisfy their burden of proof. It is for these reasons that I am skeptical of studies in which industry is unwilling or unable to provide proper evidence.

If the tables were turned and the burden of proof was on assessors, taxpayers would demand nothing less than absolute proof. They certainly would never agree to studies they could not validate.

Senator Runner
December 10, 2013
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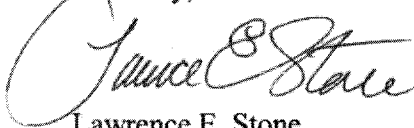
However, I remain committed to any solution that achieves more uniformity throughout California. Industry has claimed that studies do exist, and according to your survey, have been used in a handful of instances. I would appreciate learning from Board staff about the studies referenced in question nine of the BOE survey, specifically:

1. During the past three years, what studies from industry have been accepted without changes?
2. If studies were accepted but revised, were the revisions the result of a review of underlying data?
3. What industries were represented by these studies?
4. Did the studies involve non-assessable software? If not, what issues were addressed by the studies?
5. Was BOE staff given access to underlying documentation and data for verification and analysis?
6. What types of supporting documentation and data were staff members given access to in order to verify the studies' results?

Finally, I would appreciate your assistance in making each of these studies available to assessors. In order for assessors to improve uniformity, it is critical that we receive all available information so that we can independently review and adjust assessed values where appropriate.

Again, thank you for your willingness to work toward a solution. After six years of working on this issue, I have come to the conclusion that the only solution lies with the people who created this mess in the first place—the State Legislature. In two prominent decisions, the courts called on the State Legislature to modernize the 1972 statute in light of the monumental changes in modern technology during the past 41 years.

Sincerely,



Lawrence E. Stone
Assessor

CC: Jim Rooney, President, California Assessors' Association
Members of the State Board of Equalization
CAA Ad-Hoc Committee on Embedded Software
Lawrence Hoenig, Pillsbury Winthrop Shaw Pittman
Teresa Casazza, Cal-Tax
David Gau, State Board of Equalization
Dean Kinnee, State Board of Equalization

LES:dhf